

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ANNETTE COMER,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner of
Social Security,

Defendant.

CV 04-1149-ST

ORDER

HAGGERTY, Chief Judge:

On September 27, 2005, Magistrate Judge Stewart issued a Findings and Recommendation in this action [19] in which the Magistrate Judge recommended that the defendant Commissioner's final decision should be reversed and remanded for further proceedings. No objections were filed.

The matter is now before the court pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). A district court "may accept, reject, or modify, in whole or in part, the findings or

recommendations" made by a Magistrate Judge. 28 U.S.C. § 636(b)(1). Within ten days of being served with a copy of the Findings and Recommendation, any party may file written objections and the court shall make a *de novo* determination of those portions of the Findings and Recommendation to which objections are made. *Id.* When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation of the Magistrate Judge. *Thomas v. Arn*, 474 U.S. 140, 149-150 (1985); *Campbell v. United States District Court*, 501 F.2d 196 (9th Cir. 1974). No clear error appears on the face of the record, and the court adopts Magistrate Judge Stewart's Findings and Recommendation.

CONCLUSION

The Magistrate's Findings and Recommendation [19] is adopted in its entirety. The Commissioner's final decision should be reversed and remanded for further proceedings. The Commissioner is directed to address all of Dr. Grant's findings, demonstrate compliance with the regulatory Psychiatric Review Technique, and clarify the RFC assessment with respect to the applicable period for each of Comer's claims. A final judgement should be entered pursuant to sentence four of 42 USC § 405 (g).

IT IS SO ORDERED.

Dated this 13 day of January, 2006.

/s/ Ancer L.Haggerty

ANCER L. HAGGERTY
United States District Judge